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PROFESSIONAL AND OCCUPATIONAL STANDARDS

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Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LVII. Private Investigator Examiners

**Chapter 1. Organizational and
General Provisions**

§101. Duties of Chairperson and Vice Chairperson

A. The chairperson (chair) of the Board of Private Investigator Examiners (board) shall exercise general supervision of the board's affairs, shall preside at all meetings when present, shall appoint the committees within the board and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

B. The vice chairperson shall perform the duties of the chair in his absence or such other duties as may be assigned by the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993).

§103. Duties of Executive Director

A. The executive director shall be the chief administrative officer and shall serve at the pleasure of the board.

B. Subject to the supervision of and direction of the board, the executive director shall:

1. act as the board's recording and corresponding secretary and shall have custody and maintain the records of the board;
2. cause written minutes of every meeting to be taken and maintained;
3. arrange the order of business of all meetings and notify all persons who are to appear at such meeting;
4. act as treasurer and receive and deposit all funds, and keep the records and books of account of the board's financial affairs;
5. attest all itemized vouchers for payment of expenses of the board;
6. prepare such reports to the governor and legislature as required for by law or as requested by same;
7. keep the board's seal and affix it to such instruments and matters that require attest and approval of the board; and
8. perform such other duties as directed by the board.

C. The executive director may spend up to \$500 for board purchases without prior approval by the board or the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993), amended LR 27:563 (April 2001).

§105. Meetings of the Board

A. Meetings shall be announced and held in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. A quorum to transact any business of the board shall be not less than four of its members.

B. The executive director shall give a written notice to all interested members of the public who make a timely request for notice of any board meeting.

C. Minutes of meetings will be made available upon written request to the board, and a monetary fee will be assessed in accordance with Division of Administration rules and regulations governing public records of any individual or company requesting such minutes.

D. Each board member shall have one vote on all matters before the board. Proxy voting is not allowed. A majority vote of the members at any meeting shall be required for any board actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993), amended LR 27:563 (April 2001).

§107. Official Seal; Use of State Seal Prohibited

A. The official seal of the board consists of the Louisiana state seal with the title of the board in the outer circle.

B. No person or licensee shall use any facsimile reproduction or pictorial portion of the seal of the state of Louisiana on any badge, credentials, identification card or other means of identification used in connection with any activity regulated under this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993).

§109. Committees

A. Standing committees of the board are:

1. General Committee, whose duties include special projects as authorized by the chair; and
2. Finance Committee, whose duties include periodic review of the budget, recommendations regarding the establishment of fees charged by the board, and recommendations to the board regarding all expenditures in excess of \$500.

B. The chair shall appoint board members to any committees as needed to fulfill the duties of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993), amended LR 30:1303 (June 2004).

§111. Complaints

A. Any complaint to the board must be in writing, signed by the individual making said complaint, and include an appropriate means by which to contact said individual for investigative purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1333 (October 1993).

§113. Public Comments at Board Meetings

A. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman or the executive director no later than the beginning of the meeting. However, to assure that an opportunity is afforded all persons who desire to make public comments, the chairman shall inquire at the beginning of the meeting if there are additional persons who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment, limiting each person to a maximum of three minutes, with the total comment period not to exceed thirty minutes. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 28:308 (February 2002).

Chapter 3. Additional Definitions

§301. Definitions

A. In addition to the definitions set forth in R.S. 37:3503, the following terms shall have the meanings ascribed, unless the context clearly requires otherwise.

Branch Manager—The individual having prima facie responsibility and liability for a branch office.

Branch Office—A separate office which is part of a company licensed by the Board of Private Investigator Examiners.

Personal Service—On any person, when required, may be made by the board mailing, by certified or registered mail, to the person's last known address.

Qualifying Agent—A responsible officer or executive employee of an investigative company.

Rule—Any agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the board. It does not include statements concerning only the internal management or organization and not affecting private rights or procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1333 (October 1993).

Chapter 5. Application, Licensing, Training, Registration and Fees

§501. Application

A. The board shall issue a two-part application.

1. Part I shall be designated for investigative agencies; and
2. Part II shall be designated for individual investigators.

B. Applications shall be sent to all persons requesting application for licensing in the state of Louisiana.

C. The application shall contain the following information:

1. the minimum statutory requirements for obtaining a license in the state of Louisiana;
2. instructions explaining requirements of the application; and
3. a schedule of licensing fees for an agency and individual.

D. Information requested on the application shall include the following:

1. company, partnership or corporation history;
2. personal history;
3. marital status;
4. education;
5. military service;
6. employment history;
7. character references;
8. investigative history;

9. miscellaneous questions regarding:

- a. involvement of overthrow by force of our government;
- b. crimes involving moral turpitude;
- c. felony convictions; and
- d. any unfavorable background incidents the applicant should share with the board; and

10. notarized statement confirming the accuracy of the information contained in the application.

E. If the applicant is a sole proprietor, he must furnish a copy of his occupational license with the application.

F. Applicants must submit appropriate fees along with the application. An administrative fee of \$25 made payable to the board will be assessed on all checks returned from the bank and deemed non-sufficient funds.

G. No person shall make an application to the board as qualifying agent unless that person intends to maintain and does maintain supervisory position on a regular, full-time basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1333 (October 1993), amended LR 27:1240 (August 2001).

§503. License Renewal

A. In addition to the requirements for licensing renewal set forth in R.S. 37:3517, applicants for licensing renewal shall be required to submit a certification to the board that the applicant for license renewal has not been convicted of a felony during the past year. The fee notice sent out for licensing renewal shall contain this certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1333 (October 1993).

§505. Requests for Approval of Training Classes

A. A qualified school may be approved to conduct 40-hour training classes required for licensing by submitting a letter of request for approval by the board. The request shall include the following:

- 1. name and location of school;
- 2. owner of school;
- 3. copy of occupational license;
- 4. list of course of study;
- 5. name, address, profession and educational and investigative experience of each instructor teaching a private investigation course; and
- 6. a notarized statement that each instructor has a minimum of three years supervisory experience with a contract investigator company or proprietary investigator organization.

B. Course instructors may invite a licensed attorney-at-law or a licensed Louisiana private investigator to supplement lesson plans regarding the course taught by the instructor.

C. Course instructors, whether full or part time, shall apply for a license and take the written examination prior to conducting any private investigation classes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1333 (October 1993).

§507. Licensure Examinations

A. To be licensed, an applicant must pass a written examination, unless exempt by the grandfather clause, state statute or board resolution. The passing grade of the examination shall be as established by the board.

B. A person who has not successfully passed the examination can reapply to take the examination twice within a 12-month period. If, after two attempts, the individual has not successfully passed the examination as required, appropriate board action will be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993).

§509. Form and Term of License

A. Licenses, when issued, shall be in the form of a wall certificate no larger than 8 1/2 inches by 11 inches in size. The certificate shall contain the following information:

- 1. name of licensee and/or agency name under whose authority the license is granted;
- 2. addresses of the agency location(s) (main office and branch offices) responsible for licensee;
- 3. number of license;
- 4. date of issue;
- 5. date of expiration (to be issued every year and may be affixed to certificate in lieu of issuing a new certificate);
- 6. the official state insignia;
- 7. agency and qualifying agent if licensee;
- 8. private investigator and agency under whose authority he is assigned;
- 9. signature of executive director;
- 10. signature of chairman of the board; and
- 11. the official Board of Private Investigator Examiners' seal.

B. The license certificate shall remain the property of the board and will be surrendered upon written request from the board.

C. Licenses issued by the board shall be valid for a one year period to begin from the date application was approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993), amended LR 27:564 (April 2001).

§511. Licensing of Out of State Companies

A. Companies wishing to do business in Louisiana must either incorporate here or be duly qualified to do business within this state with a valid certificate of authority issued by the secretary of state and shall have an agent for service of process designated, as required by law.

B. Out of state companies, or individuals wishing to do business in Louisiana, who satisfied all the licensing requirements outlined by R.S. 37:3507, may do so without examination if the state under which it holds a valid license has licensing requirements comparable to those of Louisiana. Verification of satisfactory completion of such other state's examination must be submitted to the board. If the out-of-state company or individual is licensed by a state that does not have licensing requirements comparable to those of Louisiana, then the company or individual must satisfy all the licensing requirements outlined in R.S. 37:3507.

C. Fees for out-of-state companies are the same as for in-state companies except that an out-of-state company shall be required to pay the board for the cost of transportation, lodging, and meals at the Louisiana state rate when an examination of records is performed if those records are kept out-of-state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993).

§512. Licensing of Apprentices

A. A licensed agency with its principal place of business in the state of Louisiana and a previously unlicensed individual domiciled and residing in the state of Louisiana may apply for the licensing of the previously unlicensed individual as an apprentice as follows.

1. A letter of intent to sponsor shall be sent to the board by the licensed agency, along with the apprentice application, indicating the agency's intent to accept the sponsorship and responsibility for the apprentice applicant.

2. Upon receipt of a letter of intent to sponsor and the completed application from the apprentice candidate, the chairman of the board shall issue a letter acknowledging the receipt of same, provided the apprentice license applicant satisfies the requirements of R.S. 37:3507 and all fees required by law have been paid. The letter shall serve as a temporary apprentice registration card until the board meets to consider the application and the issuance of the official apprentice registration card.

3. No agency may sponsor any more than six apprentice investigators at any one time. No person shall be licensed as an apprentice if he has ever been licensed as an apprentice before.

B. An apprentice license shall be effective for one year only; and the apprentice shall operate as a private investigator only under the immediate direction, control and supervision of the sponsoring agency during that time.

C.1. The sponsoring agency shall be directly responsible for the supervising and training of the apprentice.

2. In addition, the sponsoring agency shall be responsible for educating the apprentice in the following areas:

a. knowledge of the private investigator business and the laws regulating same, including R.S. 37:3500 et seq., and the rules and regulations regulating the practice as a private investigator in this state;

b. general federal and state constitutional principles;

c. general information regarding invasion of privacy laws, search and seizure laws and related procedures, and state concealed weapons' law;

d. surveillance techniques;

e. photograph principles: video and still; and

f. general information regarding the assembling of public information from clerk of court offices and court records.

D.1. The apprentice registration card shall remain valid for only one year from the date of the letter serving as the temporary registration card or issuance of the official apprentice registration card, whichever is first. Only so long as the apprentice is working under the supervision of a licensed sponsor agency.

2. During the apprenticeship period, the apprentice must attend the 40-hour training course approved by the board.

3. An apprentice license may be transferred to another agency provided the other agency meets all the requirements of law and §512 of the rules and regulations, particularly the filing of the letters of intent, regarding sponsorship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(A)(3) and (B)(1); and R.S. 37:3514(A)(4)(a).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:459 (June 1996), amended LR 24:1769 (September 1998), LR 27:1016 (July 2001).

§513. Notification of Changes

A. Notification required by R.S. 37:3513 of changes in information to be furnished by a licensee shall include:

1. termination of a branch manager;

2. change of agency name;

3. change of agency address;

4. change of agency telephone number; and

5. change of ownership if agency is sole proprietorship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993).

§515. Registration Card

A. The registration card shall be no larger than 2 1/4 inches by 4 inches in size. The registration card shall contain the following information:

1. name of investigator;
2. name of agency under whose authority license is issued;
3. date of expiration;
4. current two inches by two inches color photograph;
5. drivers license number;
6. company name;
7. company address (city and state);
8. license number;
9. signature of executive director;
10. signature of license holder;
11. state insignia; and
12. board seal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993), amended LR 27:564 (April 2001).

§517. Fees

A. In addition to the fees provided by R.S. 37:3516, the following schedule of fees shall be assessed:

1. for licensee or any business entity employing more than one investigator:

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|---|--------|
| a. renewal within 30 days after expiration of license | \$200; |
| b. late fee | \$35; |
| c. per investigator | \$20; |
| d. transfer of agent | \$25; |

2. for private investigator employed by a company or corporation, or apprentice investigator:

- | | |
|--|-------|
| a. annual renewal license fee | \$50; |
| b. replacement fee for a lost, destroyed, or mutilated license | \$25; |
| c. renewal within 30 days after expiration of license | \$50; |
| d. late fee | \$35; |
| e. transfer of agency | \$25; |

3. any individual, partnership or corporation actively operating in the private investigation business since August 21, 1992 who did not apply to the board for a license, will be assessed an administrative fee in the amount of the yearly renewal fee as prescribed by law, per year for each year past November 16, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993).

§518. Continuing Education

A. Each licensed private investigator is required to complete a minimum of eight hours of approved investigative educational instruction within the one year period immediately prior to renewal in order to qualify for a renewal license.

B. Each licensed private investigator is required to complete and return the LSBPIE Continuing Educational Compliance form with the request for license renewal each year. The form shall be signed under penalty of perjury and shall include documentation of each hour of approved investigation educational instruction completed.

C. Any licensee who wishes to apply for an extension of time to complete educational instruction requirements must submit a letter request setting forth reasons for the extension request to the executive director of the LSBPIE 30 days prior to license renewal. The training committee shall rule on each request. If an extension is granted, the investigator shall be granted 30 days to complete the required hours. Hours completed during a 30 day extension shall only apply to the previous year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505B(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:371 (May 1996), amended LR 27:564 (April 2001), LR 27:1016 (July 2001), LR 28:855 (April 2002).

Chapter 7. Client-Investigator Relationship

§701. Competence

A. An investigator shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993).

§703. Scope of Representation

A. Both investigator and client have authority and responsibility in the objectives of the investigation. The client has ultimate authority to determine the purposes to be served by the investigation, within the limits imposed by law and the investigator's professional obligations.

B. An investigator may limit the objectives of the representation if the client consents after consultation.

C. An investigator shall not encourage a client to engage, or assist a client, in conduct that the investigator knows is criminal or fraudulent. An investigator, however, may discuss the legal consequences of any proposed course of conduct with a client and may advise a client to seek legal counsel for assistance in making a good faith effort to determine the validity, scope, meaning, or application of the law.

D. When an investigator knows that a client expects assistance prohibited by the Rules of Professional Conduct or other law, the investigator shall consult with the client regarding the relevant limitations of the investigator's lawful conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993).

§705. Diligence

A. An investigator shall act with reasonable diligence and promptness in representing a client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993).

§707. Communication

A. An investigator shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable request for information.

B. The investigator shall give the client sufficient information to participate intelligently in decisions concerning the objectives or the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993).

§709. Confidentiality of Information

A. An investigator shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in §709.B.

B. An investigator may reveal such information to the extent the investigator believes reasonably necessary:

1. to prevent the client from committing a criminal act that the investigator believes is likely to result in imminent death or substantial bodily harm; or

2. to establish a claim or defense on behalf of the investigator in a controversy between the investigator and the client, to establish a defense to a criminal charge or civil claim against the investigator based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the investigator's representation of the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993).

§711. Conflict of Interest: General Rule

A. Loyalty is an essential element in the investigator's relationship to a client. Therefore:

1. an investigator shall not represent a client if the representation of that client will be directly adverse to the representations of another client, unless:

a. the investigator reasonably believes the representation will not adversely affect the relationship with the other client; and

b. each client consents after consultation;

2. an investigator shall not represent a client if the representation of that client may be materially limited by the investigator's responsibilities to another client or to a third person, or by the investigator's own interest, unless:

a. the investigator reasonably believes the representation will not be adversely affected; and

b. the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the disadvantages and risks involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1335 (October 1993).

§713. Conflict of Interest: Prohibited Transactions

A. As a general principle, all transactions between client and investigators should be fair and reasonable to the client. Furthermore, an investigator may not exploit the representation of a client or information relating to the representation to the client's disadvantage. Examples of violations include, but are not limited to, the following:

1. an investigator shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client unless:

a. the transaction and terms on which the investigator acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted, in writing, to the client in a manner which can be reasonably understood by the client;

b. the client is given a reasonable opportunity to seek the advice of independent counsel in the transactions; and

c. the client consents in writing thereto;

2. an investigator shall not use information relating to representation of a client to the disadvantage of the client unless the client consents after consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1336 (October 1993).

§715. Conflict of Interest: Former Client

A. An investigator who has formerly represented a client in a matter shall not thereafter:

1. represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or

2. use information relating to the representation to the disadvantage of the former client except when the information derived from independent sources has become generally known.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1336 (October 1993).

§717. Requirements of Contracts

A. Upon initial contact from a private citizen, a contract may be offered on all matters.

B. The contract shall contain, but may not be limited to, the following information:

1. name, address, and phone number of investigative agency;

2. name, address and phone number of private investigator responsible for case work;

3. schedule of fees to be charged;

4. purpose and scope of investigation;

5. limitations of responsibility to investigative agency;

6. limitations of responsibility to client;

7. signature of client;

8. signature of two witnesses;

9. date agreement was signed; and

10. contracts shall be made in duplicate:

a. one copy for the client;

b. one copy shall be retained in the investigative case file for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1336 (October 1993).

§719. Use of Private Investigator Badge

A. The use of a private investigator badge shall be optional. Should the investigator choose to carry a badge and display it, he shall be obligated to identify himself as a private investigator at such time as the badge is displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1336 (October 1993).

§721. Complaint Procedure

A. A request for a hearing on a complaint before the Board of Private Investigator Examiners shall contain the following:

1. the full name, address, and telephone number of the person requesting the hearing;

2. the full name, address, and telephone number of any person whose interest could be affected by the hearing;

3. a plain and concise statement of the complaint;

4. a receipt showing a copy of the complaint has been sent to the person, or to a statement from the executive director stating that a copy of said complaint had been delivered to the person named in the complaint;

5. all complaints or requests for a hearing before the Private Investigator Examiners Board, must be made by certified or registered mail to the executive director or the PI Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1336 (October 1993), amended LR 27:564 (April 2001).

§723. Transactions with Persons Other than Clients

A. Truthfulness in Statements to Others. In the course of representing a client an investigator shall not knowingly:

1. make a false statement of material fact or law to a third person; or

2. fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is otherwise prohibited by Chapter 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1336 (October 1993).

§725. Professional Misconduct

A. It is professional misconduct for an investigator to:

1. violate or attempt to violate the Rules of Professional Conduct or to knowingly assist or induce another to do so, or do so through the acts of another;
2. commit a criminal act or any other act that reflects adversely on the investigator's honesty, trustworthiness or fitness as an investigator in other respects;
3. engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
4. except upon the expressed assertion of a constitutional privilege, to fail to cooperate with the ethics committee in its investigation of alleged misconduct; or
5. threaten to file criminal charges solely to obtain an advantage in a civil matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1337 (October 1993).

§727. Occupational Licenses

A. An investigative agency must apply and pay all occupational fees required to conduct business in the jurisdiction which he is to conduct business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1337 (October 1993).

§729. Rehabilitation

A. Any licensed private investigator may voluntarily inform the board by mail of a substance abuse problem without adverse action taken by the board. In doing so the private investigator is subject to the board's recommendation to enter a substance abuse facility, and upon completion of successful treatment, shall furnish proof of completion from said facility. Failure to successfully complete a substance abuse program will subject the investigator to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1337 (October 1993).

§731. Truth in Advertising

A. An investigator shall, when advertising years of experience, clearly state the actual years of experience with the private investigative industry.

B. When advertising years of experience in private investigative industry, the ad must indicate if it is a total number of years for one certain investigator or a combined total of all investigators.

C. An investigator shall, prior to advertising a certification designation, must furnish the Board of Private Investigators with a copy of their certificate and the certificate number.

D. When using the term certification in advertising, the certified investigator's name must accompany the designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 21:582 (June 1995).

Chapter 9. Rules of Adjudication for Board of Private Investigator Examiners

§901. Scope of Chapter

A. These rules govern the board's initiation, consideration, and adjudication of administrative complaints providing cause under law for denial, modification, suspension, or revocation of a license, imposition of probation on, or other disciplinary action against any person requesting or holding a license, permit, certification, or registration issued by the board or any applicant therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1337 (October 1993).

§903. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written complaint with the board. It shall be signed by a member of the board appointed and designated by it as investigatory officer with respect to the subject matter of the complaint. The accused licensee shall be named as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officer, including the facts giving rise to the board's jurisdiction over respondent, the facts constituting legal cause for the administrative action, and the statutory, regulatory or other provision alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officer and shall bear the name, address, and telephone number of counsel engaged by the board to present the case at evidentiary hearing before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1337 (October 1993).

§905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §903, the board shall docket the complaint and schedule it for hearing before the hearing not less than 45 days nor more than 180 thereafter. For good cause, the time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon the motion of the investigating officer of respondent. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 37:3519.A evidentiary hearing on the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date, and place of the scheduling hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent as reflected in the official records of the board, or by personal delivery of the complaint to the respondent. The date of service shall be the day of personal service or the third business day after the date of posting the registered or certified notice. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be conducted and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1337 (October 1993).

§907. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matter admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all allegations therein asserted shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in this state. Upon receipt of service of a complaint pursuant, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address, and telephone number of such counsel. Following receipt of proper notice of representation, any further notice, complaint, subpoena, order or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993).

§909. Pleadings; Motions; Service

A. Any pleading, motion, or other paper permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board. Any such writing shall likewise be concurrently served upon complaint counsel, if filed by or on behalf of respondent, or upon respondent, through counsel of record, if any, if filed by complaint counsel.

B. All such pleadings, motions, or other papers shall be submitted on plain white letter-size (8 1/2 inches by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced, except as to quotations and other matter customarily single-spaced. Such documents shall bear the caption and docket number of the case and shall include the certificate of the attorney or person making the filing that service of a copy has been effected in the manner prescribed by §909.A.

C. The board may refuse to accept for filing any pleading, motion, or other paper not conforming to the requirements of §909.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993).

§911. Prehearing Motions

A. Motions for continuance of any hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum, or such shorter time as the board may order, the investigating officer, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993).

§913. Motion for Continuance

A. A motion for continuance of hearing shall be filed within the delay prescribed by §911 of this Chapter, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of a prehearing motion.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive director. Any motion for continuance of hearing which is opposed shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding, who shall rule upon such motion on the papers filed, without hearing. The presiding officer, in his discretion, may refer any motion for continuance to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a motion for continuance may request that the motion be reconsidered by the entire panel. In any such case, the panel shall rule on such motion on the papers filed, without hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993), amended LR 27:564 (April 2001).

§915. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of §915, the executive director shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by a witness and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposit with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of the time employed and the degree or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993), amended LR 27:564 (April 2001).

§917. Conduct of Hearing; Record

A. Unless otherwise requested by the respondent, the adjudication hearing shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on any issue of fact and argument on any issue of law and policy involved, to call, examine, and cross-examine any witness, and to offer and introduce documentary evidence and any exhibit required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon any evidentiary objection and other procedure question, but in his discretion may consult with the entire panel in executive session. At any hearing, the board may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on any evidentiary objection and other procedural issue raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report, or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1339 (October 1993).

§919. Evidence

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the

parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's experience, technical competence, and knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provision of these rules, adjudication hearing before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1339 (October 1993).

§921. Informal Disposition

A. The board may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1339 (October 1993).

§923. Decisions; Notice

A. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, be in writing and shall include findings of fact and conclusions of law. It shall be signed by the presiding officer of the hearing panel on behalf, and in the name, of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in absence of counsel, in the same manner of service prescribed with respect to service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1339 (October 1993).

§925. Rehearings

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §909 and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to law and the evidence;
2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
4. there exist other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1340 (October 1993).

§927. Dissemination of Disciplinary Information

A. Notice to Other States. The executive director of the board shall transmit notice of all final license revocations and suspensions to the licensing agency of every other jurisdiction in which the respondent is licensed.

B. Public Notice of Discipline Imposed. The executive director of the board shall cause notices of all final license suspensions and revocations to be published in a newspaper of general circulation in each parish in which the private investigator maintained an office.

C. The notice shall:

1. state the statute or rule or regulation found to have been violated and which resulted in the suspension or revocation;
2. state the penalty imposed for the violation; and
3. request members of the public to notify the board if the disciplined individual is operating as a private investigator without a license.

D. These publication requirements are mandatory and will not be waived.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505A(3) and B(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Board of Private Investigator Examiners, LR 26:1307 (June 2000).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
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